



**RECONSIDERATION OF A REQUEST TO AMEND THE TETON SPRINGS DEVELOPMENT AGREEMENT TO PERMIT WINTERTIME-ONLY HELI-SKI OPERATIONS FROM THE TETON SPRINGS LODGE**

Prepared for the Board of County Commissioners  
Public Hearing of November 15, 2012

**Updated Information 11/8/2012**

**APPLICANT:** Jeff Naylor

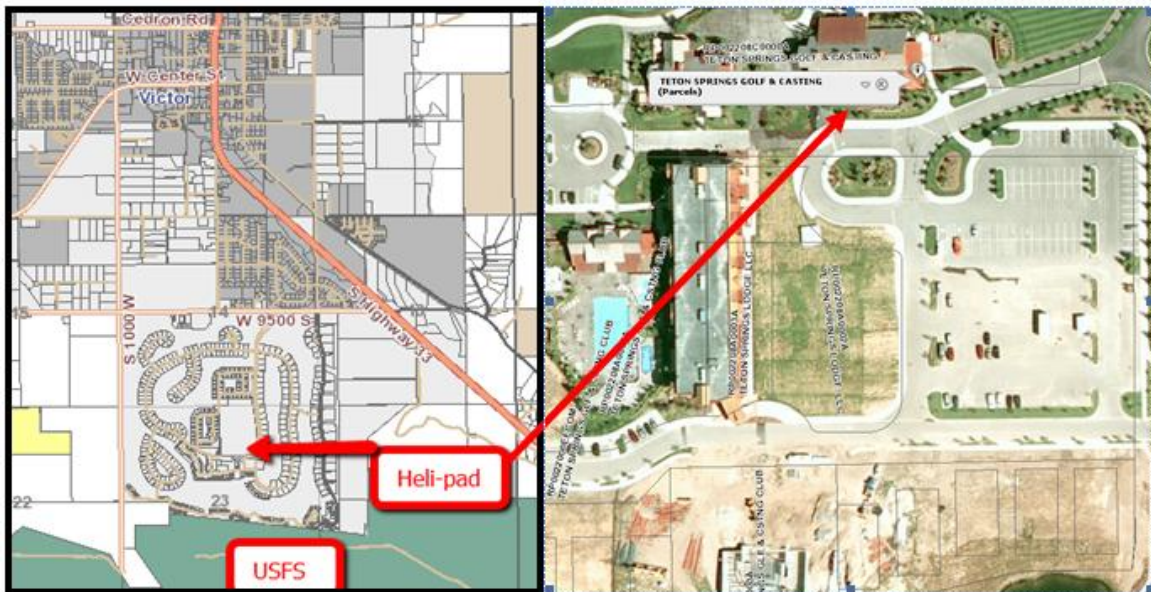
**LANDOWNERS:** Teton Springs Golf & Casting, LLC

**APPLICABLE** Teton County Subdivision Ordinance- Title 9 as amended August 11, 2011

**COUNTY CODE:** Section 9-7-1: Amendments to Recorded Subdivision Documents

**REQUEST:** An amendment is proposed to the *Development Agreement for Teton Springs Subdivision Phase 1* and associated Master Plan pursuant to Teton County Code Section 9-7-1-B. The amendment would specify a wintertime-only commercial heli-skiing operation in addition to the “alternative transportation” helicopter flights that were designated for the “Heliport-Lot 8C” on the Teton Springs Master Plan. In December, 2011, the Board agreed that a review should be conducted following the 2011-2012 heli-skiing season. The Board stated their reconsideration of the proposed amendment would be based on one season of actual helicopter operations plus further input and opinion surveys from the Teton Springs homeowners.

**VICINITY MAP**



**LEGAL DESCRIPTION:**

Tract 8C Heliport-Teton Springs Golf & Casting Club; Township 3 North, Range 45 East, Section 23

**LOCATION:** 36 Springs Parkway. The helicopter pad is located within a few hundred feet of the cart barn and in the general vicinity of the Teton Springs Lodge & Spa building, which is in the south-central portion of the Teton Springs Planned Unit Development, south of Victor.

**ZONING DISTRICT:** Teton Springs PUD/ Victor Area of City Impact

**PROPERTY SIZE:** Tract 8C = .26 acre

**BREIF HISTORY & CURRENT STATUS OF TETON SPRINGS HELI-SKING PROPOPSAL:**

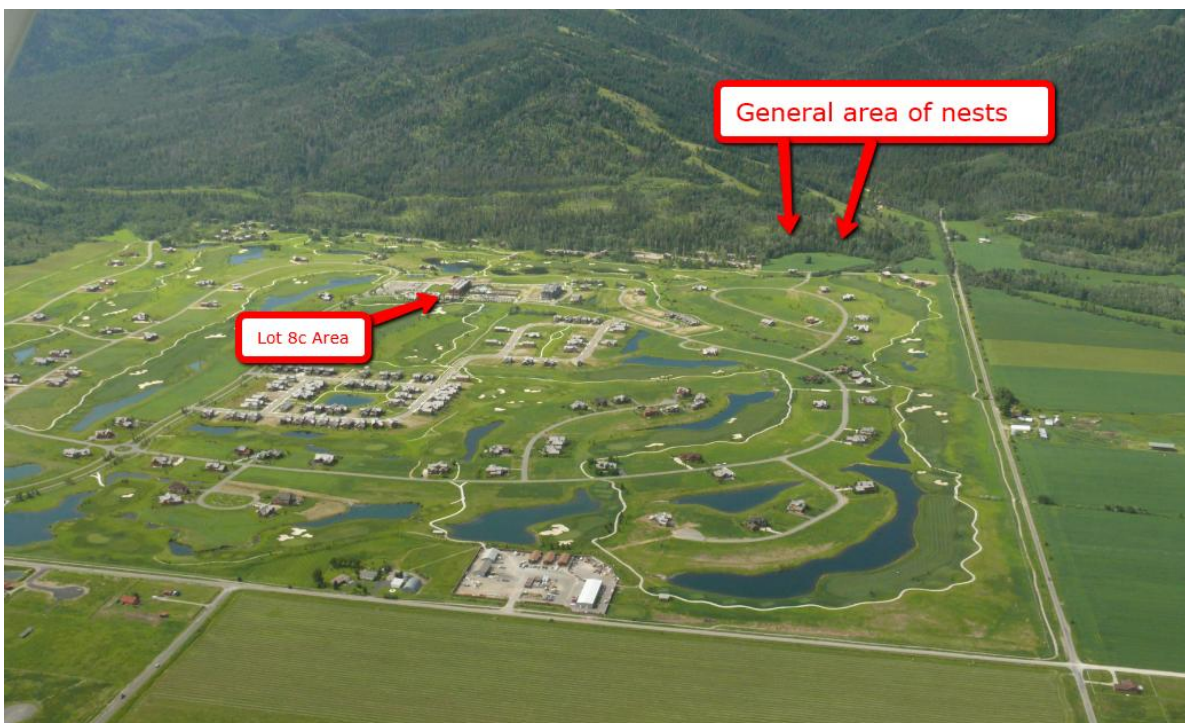
December, 2011: The Teton Springs heli-ski operation was approved for a wintertime-only temporary use permit for the 2011-2012 ski season. The operation was subject to conditions of approval and the applicant was instructed that a County review would take place after the operating season.

May-June, 2012: The Planning Staff reconnected with the applicant in order to schedule a post-ski season review of the Heli-ski operation. The purpose was to review how the operation had gone the past winter and to meet the HOA requirements stipulated by the BOCC. It was noted that the late-coming and low snowfall, plus extra hazardous avalanche conditions had made for a year where relatively few flights had taken place compared to a more average snowpack year. The Planning Staff continued to be aware that the Teton Springs residents had highly polarized opinions about the heli-ski operation because there had been complaints from some residents in Teton Springs.

July, 2012: Grand Teton Property Management sent a mailing to over 400 property owners and it was in the format of a survey that asked about the acceptability of the heli-skiing.

September 13, 2012: A public hearing was advertised and held to formally decide whether the Teton Springs Development Agreement would be amended to permit continued heli-ski operations from Lot 8-C in Teton Springs. The results of the survey were presented but the majority of the Board did not feel that what they had previously requested, an Official HOA response or vote, had been provided.

In addition to the HOA issue, the nest of a bald eagle had been specifically identified after the December, 2011 approval for the heli-ski operation. A letter mailed just before the public hearing was received from IDFG. It was presented by Rob Cavallaro from IDFG at the September 13 public hearing and is included again in this packet.



Various proposed conditions of approval were modified and further public testimony was taken. The 9/13/12 public hearing minutes are included in this packet. The staff report's conditions were discussed and the following modification to them was discussed:

- Conditions #8 (GPS for tracking of correct flight path)
- Condition #11 (Amend Development Agreement if no substantiated violations for 2012- 2013)
- Condition #14 (provide complete table of all uses at Teton Spring resort)
- Condition #15 (create ½ mile no fly zone buffer around the eagle nest and monitor bird activity)
- The Board asked that the Idaho Department of Fish & Game provide the location coordinates for the winter time eagle nest sites. A ½ mile buffer would be made and this would be a “no-fly-zone”.
- The Board asked that *“A written determination from the HOA Attorney and HOA President or signing authority, representing all lot owners (be it four individual HOA's or one master HOA) that the proposed operation with conditions as proposed are compatible with all applicable HOA CC& Rs within Teton Springs HOA.”*

The public hearing was continued to November 15<sup>th</sup>.



Aerial view of Teton Springs. The red arrow depicts a slightly modified flight path. Some change from a due-south bearing (180 degree) on the flight path would fall outside of the ½ mile eagle nest buffer.

November, 2012; Since the September 13 public hearing, more information has been submitted. It includes the following:

- Idaho Department of Fish and Game submitted coordinates for past bald eagle nest sites in the vicinity of Teton Springs (see below on GIS map).
- Teton County GIS produced a 2640-foot (half mile) buffer around the nest sites, see attached.
- Letter from Teton Springs Master HOA attorney Herb Heimerl, October 31, 2012; 3 pages.
- Jeff Naylor-November 2, 2012 letter- applicant's response to September 13, 2012 BOCC requests for information and response to the conditions of approval, as they were modified and discussed at that public hearing.
- Hess, Carlman, and D'Amours, LLC November 2, 2012 letter and attachments; 37 pages.
- VARD letter of November 5, 2012; 8 pages.
- Pamela Colby-Carter and Lucian Carter letter of November 7, 2012; 2 pages.
- Diane Murphy letter November 7, 2012; 2 pages.
- Email from Teton Springs residents/ owners listing Teton Springs residents opposed to the commercial helipad and represented by Paul D' Amours, Esq.; 1 page
- Email from Cyndy and John Engelhart November 6, 2012; 2 pages.
- Email from Ken Masters October 5, 2012

**STAFF COMMENT:** Due to the complex nature of the legal issues presented in the correspondence, Planning Staff has passed on the materials and asked the County Attorney to advise the Board. Teton Springs was the first of the resorts approved in Teton Valley and the approval documents and processes did not have precedence in the County. The original plat, a dozen amended plats, a Development Agreement, four different HOA's, and the various covenants and restrictions for commercial and residential phases make for an exceptionally complex situation with legal ramifications. Planning Staff has concluded that there are complex legal elements relating to this proposed Development Agreement amendment's approval or denial; consequently, the advice of the County Attorney should be sought regarding these legalistic concerns.

From a land planning and zoning standpoint, if the Board should choose to approve the heli-ski winter time operation, Planning Staff recommends that the Board carefully consider the outlined conditions of approval as enumerated in the September 13, 2012 public hearing meeting minutes.

Note that the applicant sent a letter dated a November 2, 2012 that provided individual responses to those 15 conditions. Jeff Naylor's letter requested further consideration on issues in:

- Condition # 2 (mechanical and medical flights),
- Condition #7 (hours of operation),
- Condition #8 (parking lot landings),
- Condition #14 (all Teton Springs PUD use-list developed)

There were additional comments on other conditions in the letter but those responses were not specifically asking for reconsideration or rewording of the condition.

**BOARD OF COUNTY COMMISSION ACTION:**

- A. Approve the Amendment to the Teton Springs Master Plan and Development Agreement, with the recommended conditions of approval listed in this staff report, having provided the reasons and justifications for the approval.
- B. Approve application with modifications to the application request, or adding conditions of approval, having provided the reasons and justifications for the approval and for any modifications or conditions.
- C. Deny the application request and provide the reasons and justifications for the denial.
- D. Continue to a future Public Hearing with reasons given as to the continuation or need for additional information.
- E. Issue another Temporary Use Permit for the coming ski season and take the subject up after another “trail year” that is more representative of normal flying conditions in Teton Springs.

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End of report